

**BOARD OF APPEALS CASE NO. 4922**

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**BEFORE THE**

**APPLICANT: John Banthem**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to allow an oversized  
accessory building in the AG District;  
3718 Bay Road, Street**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 5/5/99 & 5/12/99**

**HEARING DATE: June 30, 1999**

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**Record: 5/7/99 & 5/14/99**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, John Banthem, appeared before the Hearing Examiner requesting a variance to Section 267-26(C)(1) of the Harford County Code, to allow an existing accessory building that is more than 50% of the habitable space and is higher than the principal structure.

The subject parcel is located at 3718 Bay Road in the Fifth Election District. The parcel is identified as Parcel No. 243, in Grid 2-D, on Tax Map 18. The parcel contains 2.67 acres, more or less, all of which is zoned Agricultural.

Ms. Venus Banthem appeared and testified that the subject property is owned by she and her husband, John Banthem, own the subject property. The witness said the property is improved by a mobile home, a barn with dimensions of 34 feet by 24 feet by 26 feet, and a storage shed with dimensions of 12 feet by 12 feet. The witness said the mobile home has dimensions of 14 feet by 70 feet, is one-story, and contains 840 square feet. The witness said the barn contains 1,632 square feet and that the barn was constructed by her husband approximately 11 years ago. Ms. Banthem said that she was advised by the Department of Planning and Zoning that a permit was not necessary to construct the building. The witness said that denial of the variance would cause practical difficulty because it would be necessary to remove the barn or substantially reduce the size of the barn. The witness also said she did not feel the variance would be detrimental to adjacent properties because there are many other barns in the area which is primarily agricultural and, further, because the barn has been on the property for at least 10 years.

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The Staff Report of the Department of Planning and Zoning recommends conditional approval and provides:

**"The existing barn was located on the property before March 1990 as shown on the aerial photograph. It is located well within the lot, at least 78 feet from the side and 110 feet from the rear property lines. The barn is an agricultural structure in an area designated on the Land use Map as Agricultural/AG Residential."**

### **CONCLUSION:**

The Applicant is requesting a variance to Section 267-26(C)(1) of the Harford County Code, to allow an existing accessory structure that is more than 50% of the habitable space and exceeds the height of the principal structure in an Agricultural District.

Section 267-26(C)(1) provides:

**"In the AG, RR, R1, R2, R3, R4 and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of habitable space nor exceed the height of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of § 267-24, Exceptions and modifications to minimum height requirements. No accessory structure shall be used for living quarters, the storage of contractors' equipment nor the conducting of any business unless otherwise provided in this Part 1."**

The evidence indicates that the barn was constructed approximately 11 years ago by the Applicant after being advised by the Department of Planning and Zoning that a building permit was not necessary to construct the building. The evidence further indicates that denial of the area and height variance would cause practical difficulty since the Applicant would be required to reduce the height as well as the size of the barn. Since the barn has been in existence for nearly 11 years and no protestants appeared in opposition to the request, it is the finding of the Hearing Examiner that denial of the variance would cause practical difficulty.


It is, further, the finding of the Hearing Examiner that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code for the reasons stated by the Applicant's wife in her testimony.

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Therefore, it is the recommendation of the Hearing Examiner that the requested variances be approved, subject to the following conditions:

1. The Applicant shall obtain all necessary permits and inspections for the barn.
2. The barn shall not be used for the storage of commercial vehicles or contractors' equipment.
3. The barn shall not be used for the furtherance of a business.

Date JULY 20, 1999

  
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L. A. Hinderhofer  
Zoning Hearing Examiner